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Comments on draft EU ETS State Aid Guidelines

Lithuanian Confederation of Industrialists understands influence of emissions from production facilities to Climate Change and supports efforts to mitigate the negative effect of it. However, maintaining competitiveness of the economy is crucial. We believe that the Green Deal and the EU emissions trading system (EU ETS) are required to mitigate climate change. At the same time, the greatest ambitions for decarbonization targets should be harmonized with technological progress in industry, competitive economy in EU and globally and the adequate financial support as well.
Financial measures compensating sectors determined to be exposed to a significant risk of carbon leakage due to indirect emissions costs are an essential element in the set of measures required for a just transition towards carbon neutral economy. Compensation of indirect costs, together with the free allowances are indispensable instruments in tackling carbon leakage risk (both direct and indirect), and thus help protecting the competitiveness of industrial sectors in the EU.
We would like to draw your attention to the following issues:

1. Eligibility.

The EU Green Deal will require unprecedented investments in all energy intensive sectors. Multiple industrial sectors will be newly exposed to heightened risk of carbon leakage as EU decarbonization ambition becomes ever more significant in comparison to that of most third countries. It thus surprising, that the list of eligible sectors is significantly shorter than the one in ETS phase III.
Explanatory note accompanying the Draft Guidelines states: *"The Commission may decide to include additional sectors, in light of the feedback and evidence received in the public consultation, based purely on qualitative considerations provided the sectors concerned have at least an indirect carbon leakage indicator of 0.2 and that their carbon leakage risk as evaluated by the consultant in the study is at least medium."*
Which makes the evaluation eligible sectors more stringent as compared to that of ETS phase III, while it appears that it should be in the opposite when the level of ambition for phase IV is considered.
A case should be made for sectors 20.15 and 20.14 to be included in the list.
As per initial quantitative assessment the fertilizer sector is not sufficiently exposed to indirect carbon leakage risk to qualify for state aid. We strongly oppose this statement – it is obligatory to check the existing data and calculations. Indirect emission intensity factor in years 2013-2015 is 10,49 kg. CO_2/EUR (GVA), for the period years 2016-2019 is 2,6 kg. CO_2/EUR (GVA) as per estimates of Lithuanian fertilizer producer Achema. This shows more than necessary quantitative indicator.
The case of 20.14 is also borderline, as it appears that the consultants do not consider fuel and electricity exchangeability. Certain products under 20.14 can be produced using both fuel or electricity powered processes. The exchangeability is used to set product benchmarks, however, it

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does not seem to be given due consideration by the consultants. Which has major importance, as the evaluation of risk level by the consultants is one of the criteria mentioned in the explanatory note. For these reasons we suggest reviewing the data used in impact assessment to avoid mistakes of substantial significance.

2. Maximum aid intensity.

The European industry sectors at risk of carbon leakage are going to be exposed to increased indirect carbon costs due to increased decarbonization targets in the period till 2030. Calculation of maximum aid is based on also ambitious updated efficiency benchmarks we suggest to keep the maximum allowed level of aid intensity at 100 % as it is under current compensation scheme to avoid the negative effects that increased ambitions in combination with reduction of maximum aid intensity creates.

3. Conditionality.

Point 54 of the Draft Guidelines lists alternative conditions that have to be fulfilled by the in investments. It should be borne in mind, that investments in energy intensive industries are often technologically complex, capital intensive, take a long time from inception to completion and are often implemented in stages. Market based incentives to increase energy efficiency have resulted in continuous industrial improvements in this area. Incentives to invest in energy efficiency are also created through ambitious benchmarking processes, reflecting the best performances in these sectors (to be further updated for ETS phase IV).
This also results in a situation where majority of the investments with quicker returns have already been made. Therefore, it becomes more difficult to achieve the proposed payback time. With the EU aiming for decarbonization goals achievable in 10 to 30 years, a longer payback time allowed in the Guidelines would incentivize investments with significant potential in later years. This would also reduce the risk, that audit reports would focus on short term solutions. As these reports become more and more important as a reference document for efficiency enhancing measures financed by the States, longer term solutions should also be allowed without fixing the payback or implementation of the investment time to validity of the audit report (or +1 year as is the case in the Draft Guidelines).